

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 730.5 and 2017 Iowa Acts, Senate File 32, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 12, “Approval of Confirmatory Laboratories for Private Sector Drug-Free Workplace Testing,” Iowa Administrative Code.

These amendments are proposed as a result of 2017 Iowa Acts, Senate File 32, which allows hair to be included in acceptable samples from the human body that may be taken to test a private sector prospective employee for drugs. Acceptable samples had been limited to urine, breath, blood, and saliva. Other proposed amendments are made to align with College of American Pathologists language for accrediting “forensic drug testing” laboratories, not “forensic urine drug testing” laboratories. Specifically, the following amendments are proposed.

In rule 641—12.2(730), the definition of “sample” is revised to add “hair” to the list of acceptable body samples which may reveal the presence of alcohol or other drugs.

Subrule 12.3(4) is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.14(730), Renewal, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.16(730), Changes during approval periods, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.18(730), Denial, suspension, modification or revocation of approval, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.19(730), Restoration of approval, is amended to strike the word “urine” in reference to the on-site inspection for forensic drug testing.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 8, 2017. Such written comments should be directed to Lori Hancock-Muck, Bureau of Substance Abuse, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to lori.hancock-muck@idph.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 730.5 and 2017 Iowa Acts, Senate File 32.

The following amendments are proposed.

ITEM 1. Amend rule **641—12.2(730)**, definition of “Sample,” as follows:

“*Sample*” means such sample from the human body capable of revealing the presence of alcohol or other drugs, or their metabolites. However, “sample” does not mean blood except as authorized pursuant to Iowa Code subsection 730.5(7), paragraph “l.” For the purpose of these rules, the substances determined by the department to be samples from the human body capable of accurately and reliably revealing the presence of alcohol or other drugs, or their metabolites, are urine, breath, blood, hair and saliva.

ITEM 2. Amend subrule 12.3(4) as follows:

12.3(4) Designating the UHL to conduct an on-site inspection of each approved confirmatory laboratory at least once every two years. Inspection may be waived by the director if the laboratory has been inspected and accredited for forensic ~~urine~~ drug testing by the College of American Pathologists,

or if the laboratory has been inspected and certified, licensed, or approved to conduct confirmatory testing by another state whose requirements are at least equal to Iowa's.

ITEM 3. Amend rule 641—12.14(730) as follows:

641—12.14(730) Renewal. Laboratory approval to continue confirmatory testing for alcohol or other drugs, or their metabolites, must be renewed annually. The request for renewal shall include the following:

1. Name and address of laboratory.
2. Renewal fee.
3. Information that reflects any changes that occurred during the current approval period.
4. Copy of supporting documents if the laboratory is accredited for forensic ~~urine~~ drug testing by the College of American Pathologists, or if it is certified, licensed, or approved through reciprocity.

ITEM 4. Amend rule 641—12.16(730) as follows:

641—12.16(730) Changes during approval periods. The following changes that occur during an approval period shall be submitted to the department within five working days from the date the change took place:

1. Change in laboratory director.
2. Change of address.
3. Change in supervisor.
4. Change in confirmation procedures.
5. Change in proficiency testing program.
6. Addition or subtraction of alcohol or other drugs, or their metabolites, being tested.
7. Change of ownership.
8. Loss of accreditation for forensic ~~urine~~ drug testing by the College of American Pathologists.

ITEM 5. Amend rule 641—12.18(730) as follows:

641—12.18(730) Denial, suspension, modification or revocation of approval. Any one of the following can result in denial, suspension, modification or revocation of approval. Failure of the confirmatory laboratory to:

1. Remain in compliance with the requirements of these rules.
2. Provide required documentation, including documentation of laboratory personnel and proficiency test results.
3. Maintain confidentiality.
4. Meet proficiency testing criteria.
5. Provide correct information.
6. Satisfactorily complete the two most recent and relevant graded proficiency test reports from a recognized proficiency testing program (for initial approval).
7. Correctly represent facts on a self-inspection questionnaire or other application documents.
8. Pass an on-site inspection conducted by the College of American Pathologists for forensic ~~urine~~ drug testing, or by another state whose requirements are at least equal to Iowa's, or by the UHL.

ITEM 6. Amend rule 641—12.19(730) as follows:

641—12.19(730) Restoration of approval. A confirmatory laboratory whose approval has been suspended, modified, or revoked may be reinstated within 90 days following the receipt of the following:

1. Documentation of actions that correct the reasons for suspension, modification, or revocation.
2. Documentation of a successful on-site inspection, if necessary, conducted by the College of American Pathologists for forensic ~~urine~~ drug testing, or by another state whose requirements are at least equal to Iowa's, or by the UHL.